



# City of Carmel

## **Carmel Advisory Board of Zoning Appeals Regular Meeting Monday, April 25, 2005**

The regularly scheduled meeting of the Carmel Board of Zoning Appeals met at 6:00 PM on Monday, April 25, 2005, in the Council Chambers of City Hall, Carmel, Indiana. The meeting opened with the Pledge of Allegiance.

Members in attendance were Kent Broach, Leo Dierckman, James Hawkins, Earlene Plavchak and Madeleine Torres, thereby establishing a quorum. Angie Conn, Jon Dobosiewicz and Mike Hollibaugh represented the Department of Community Services. John Molitor, Legal Counsel, was also present.

Mr. Broach moved to approve the minutes of the March 31, 2005 meeting as submitted. The motion was seconded by Mr. Dierckman and **APPROVED 5-0.**

Mrs. Conn gave the Department Report. There had been a request to reorder the agenda so that the Old Business, Item 1i, could be heard first, second would be Items 4-7h.

Mr. Broach moved to reorder the agenda. The motion was seconded by Mr. Dierckman and **APPROVED 5-0.**

Mr. Molitor gave the Legal Report. He has monitored activity in the State legislature and there has not been any Bills passed that would affect the Board this year. The Board may want to schedule an Executive Session for next month to discuss pending litigation for a status report.

### **I. Old Business.**

#### **1i. Carmel/Clay Schools, Soccer Fields at River Rd**

The applicant seeks special use approval to construct sports fields and parking:

Docket No. 05010046 SU Chapter 5.02 Special Use in S-1 Zone

The site is located at the northwest corner of River Rd and 126th Street. The site is zoned S-1/Residence-Low Density and is within the Special Flood Hazard Zone.

Filed by George Zboyovsky of Paul I Cripe for Carmel/Clay Schools.

Mr. Hawkins reminded everyone of the rules of the process. The Petitioner will have fifteen minutes to present new or additional information since this case has already been heard. Any new general public comments which are favorable will have five minutes. Organized unfavorable remonstrance will be given fifteen minutes. Any general public comments that are unfavorable will be five minutes. The Petitioner's five-minute rebuttal will follow the public comments, followed by Staff comments. Once the Staff has given their comments, the Public Hearing portion is closed.

Present for the Petitioner: Ron Farrand, Director of Facilities and Transportation, Carmel/Clay Schools. They are seeking final action on this petition. Last month there was a request for information from Carmel Dad's Club relative to their use of existing facilities and how they would utilize this facility. The final approval would include construction of the section to the north of Vestal Ditch, including soccer fields and 108-car parking area. Also, from the information that will be presented by Brad Little from the Carmel Dad's Club regarding the traffic in the south section, the grass overflow parking area will be paved.

Brad Little, Carmel Dad's Club. He presented the details of how they run the soccer club and how they came up with the parking requirements. The Commitment letter that was put together with the homeowners' association is still intact. The Section 1 of the facility will be used by the high school in the fall and the Dad's Club in the spring. Section 2 will be used for practices throughout the week. He presented a summary of the various soccer facilities (copy attached). They also use and maintain the Hamilton County River Road Park for rugby and softball and the open space for practice. This is used by other groups in the surrounding community. This park has 166 parking spaces. They have proposed 272 parking spaces for the six soccer fields in Section 1 at River Road and 108 parking spaces in Section 2. He showed charts of the game times, age levels, and car count (copy attached). The start time at River Road has been adjusted to 9:00 AM start time. They project a maximum of 270 cars with a flow of 90 cars in and out. According to the Commitments, they will have a traffic control officer on Saturdays. They can instruct him to route all traffic east into the roundabout.

General favorable comments:

David Stamps, 12560 Medalist Parkway, Plum Creek Village. He has been part of an ad hoc group to come up with an agreement on Commitments to limit and control and regulate the use of the property. They have worked with the School System and Dad's Club. They ask that the agreement made tonight be made part of the record.

Remonstrance:

Omer Stocker, 5942 McKinges Circle. He presented information gathered by his wife and forwarded to the Board. Based on last month's meeting, six soccer fields were approved in this area. These fields and parking combined with the 179 parking spaces plus overflow for the River Road Park fields, makes 15 athletic fields and 484 parking spaces. At Badger field there are 15 athletic fields with 352 parking spaces. This creates a sports complex larger than Badger field. The property is zoned S-1 which calls for less intensive uses. These soccer fields combined with the River Road Park athletics is very intense. The location of Prairie View Club House is on the corner of 131<sup>st</sup> Street and River Road. The residents in Prairie View have to cross 131<sup>st</sup> Street or River Road to get to the club house. The additional use by the soccer fields will create too much traffic for people trying to use the pool and club house.

Dan Lynch, 12537 Medalist Parkway. He is in the traffic build-up zone. He felt it would become a gridlock with intensive use. They may need "No Parking" signs on one side of Medalist Parkway. The streets are curb-less and are not ready for this intensive use.

Jane Kienholz, 12951 MacAlister Trace. Her concern was the 108 parking spaces for the one field northwest of the creek. Eight smaller fields with 6 children each is 48 plus coaches that she would round up to 60 parking spots. It is a practice field and they usually carpool for practice times, so there would not be 2.3 cars per child. She wants to know if that extra load was proportional.

Rebuttal:

Mr. Little stated that Section 2 is the one field that can be broken into 8 smaller fields. They have already taken away one parking lot and feel that 108 spaces are adequate. The use of the pool and club house at Prairie View would be a different time. The Dad's Club will only be using Section 2 from April through Memorial Day with tournaments on June 6 and then practice beginning Labor Day through October. They would not be using it in the fall. The Dad's Club will be using Section 1 for 9 weeks, mid to late April, typically after spring break, until June 6. The Sunday play at Badger is for lacrosse. The purpose of River Road is to begin dispersing the play that the other facilities are taking. Lacrosse will be moving from Badger to the facility on the west side and football will be moving to the new Mark Herrmann fields. River Road allows them to continue the disbursement of play as the community grows.

The Public Hearing was closed.

Mrs. Conn gave the Department Report. The Department recommended positive consideration after all questions and concerns have been addressed.

Mr. Molitor stated that the approval last month contained a commitment that the use would only be by the School System. The part of the petition that contemplated use by the Dad's Club was before the Board tonight with the additional parking proposals. The major issue was not what was going to be developed, but how intensive the use would be and who and what would be there and if the parking and traffic plans were adequate. They amended their proposal last month for only school use and tonight was about Dad's Club use.

Mr. Dierckman asked if the 9 weeks included Sundays.

Mr. Little stated that the Commitment was for Saturdays with provision for Sunday make-up games.

Mr. Broach thought that the staggering of the games was important and useful. He wanted to know who scheduled the rugby games at the County Park.

Mr. Little stated they were scheduled by the Dad's Club and they have moved part of the program to Wednesday night and through the week so they do not have all the activity on Saturday. The Saturday they counted cars at Badger, there were no games at the County Park. There were people flying kites and practicing soccer.

Mrs. Torres asked if the 108 parking spaces were strictly for the north field in Section 2.

Mr. Little stated that they were for Section 2, because they could not put anything over the creek for passing between the two sections.

Mr. Hawkins about the Saturday and Sunday games at River Park.

Mr. Little stated that the only games were rugby.

Mr. Dierckman wanted to know why they needed six fields on the south and eight fields on the north, instead of four and six to reduce the intensity.

Mr. Little stated the six fields replace fields they have lost since 2002 from the west side with the construction of the new middle school and proposed elementary school. They are out of practice fields. They want to be a good neighbor and not jam more soccer fields in the north area, Section 2. It is hard for them to get coaches for teams because they do not have any place to practice. Therefore, Section 2 on the north is a luxury they would like to have so that they can assign practice fields for the young teams.

Mr. Dierckman was more concerned about the games and wanted to know if the north fields would be used on Saturdays.

Mr. Little stated that in the Commitments they do have an option to have games on the northern section if they choose. At this point, they do not choose to use those fields on Saturdays. They are set for practices for Monday through Thursday. If they open that section for games on Saturdays, they would need a separate set of commissioners running that section.

Mr. Dierckman wondered if one or two games could be on the north to split the games up from the south side.

Mr. Little stated that could be an option in the fall.

Mrs. Torres stated that traffic is a big issue in Carmel, but the Carmel Dad's Club has a positive impact on the City. They need to look at the pros and cons.

Mr. Hawkins felt that this field has less intensive use than Badger and Shelborne fields.

Mr. Little stated that there are 80 total acres in the parcel. They are trying to accommodate for the future elementary school in the southeast corner and the creek cuts through the property at an angle with woods in the northern section. Badger and Shelborne fields are both rectangles. There is more parking here in terms to the number of fields.

Mrs. Conn stated that she had read the Commitments that were presented at the last meeting. They are acceptable and address the timing, the usage of the fields and schedule.

Mr. Molitor stated that there was a little confusion between the commitments that were proposed on March 31, 2005 which contemplated there could be spring play by the Dad's Club on the north fields on Saturdays from 9:00 AM to 5:00 PM. Tonight's report, on page 5, section 2, Spring and Fall Season, has no activity on Friday, Saturday or Sunday in Section 2. Mr. Dierckman was suggesting there could be some activity in the northern fields to lessen the congestion in the southern fields.

Mr. Dierckman stated that if the homeowners stated they did not want it on the northern side, they must have a good reason.

Mr. Molitor stated that the Commitments at the March meeting contemplated some use of the northern fields on Saturdays. But the proposal tonight shows no activity on Friday, Saturday or Sunday on the northern fields. He felt that needed to be addressed to understand what would be allowed there.

Mr. Dierckman asked Mr. Stocker and Mr. Stamps about the homeowners' association standpoint on no use of the northern fields on the weekend.

Mr. Stocker stated that it was in exchange for allowing the Dad's Club to use the six fields to the south, they would not use the northern ones in the spring time. At another meeting they stated the northern ones would only be used in the spring time for practice Monday through Thursday as a compromise.

Mr. Stamps stated there were two documents under consideration. The Commitments document was submitted at the March 31, 2005 meeting and was still the same for this meeting. Mr. Little prepared his presentation, but that presentation was not the Commitments. The Commitments state that Saturday use was permitted in the spring on the north field 9:00 AM to 5:00 PM. He felt that one game on the northern field would release the pressure on the southern fields.

Mr. Little agreed that the Commitments would allow them to use the northern field on Saturday. If the Board felt that field should be incorporated into the mix, then they would be flexible and work that in.

Mr. Dierckman felt it would reduce the traffic on the south side by 15 to 20 percent. He asked if they would be prepared to use five fields on the south and one field on the north.

Mr. Little stated they would prefer to use the six on the south, because these are two separate properties that would have to be maintained. They would need a one-story structure for restrooms and storage.

Mr. Broach was not as concerned about the six fields, but that it was 9 Saturdays and not the whole year and there would not be any games at the County Park.

Mr. Little stated that the River Road County Park currently has Saturday rugby games. They are guests at that facility and use and maintain it. They have hosted a couple of State championships. They disburse other games throughout the week.

Mr. Broach stated that Mr. Stocker had a good point that they needed to look at use in the area. The Dad's Club has done a good job of staggering the six and one games, but he was concerned about the games going on at the County Park.

Mr. Little stated they had been working with the County Parks Department to begin a registration process and the scheduling will be coordinated. That has been within the last ten days and it will help manage the use.

Mr. Hawkins asked if the Dad's Club was still in agreement with the Commitment they made at the last meeting and if it could be adopted and recorded.

Mr. Little replied in the affirmative.

Mrs. Plavchak moved to approve **Docket No. 05010046 SU, Carmel/Clay Schools, Soccer Fields at River Rd.** The motion was seconded by Mrs. Torres. Mr. Broach asked for clarification that this was with the Commitments agreed upon by the parties.

Mr. Hawkins replied in the affirmative and added that it was for the full project.

**Docket No. 05010046 SU, Carmel/Clay Schools, Soccer Fields at River Rd, was APPROVED 5-0 with the Commitments.**

#### **H. Public Hearing.**

##### **1-3h. TABLED O'Malia Fireplace Shop Expansion**

The applicant seeks the following development standards variances:

~~Docket No. 04100017 V Chapter 12.04.02 front yard setback~~

~~Docket No. 04100018 V Chapter 27.03.02 no curbed parking~~

~~Docket No. 04110009 V Chapter 26.04.05 buffer yard requirements~~

~~The site is located at 220 S Range Line Rd. The site is zoned B-1/Business.~~

~~Filed by Paul Reis of Drewry Simmons Pitts & Vornehm for the Helen J. O'Malia Trust.~~

##### **4-7h. Hahn Surveying (Office Use)**

The applicant seeks the following use variance and development standards variance approvals:

**Docket No. 05020030 UV Chapter 6.01.01 permitted uses**

**Docket No. 05020031 V Chapter 27.03.03 parking lot curbing**

**Docket No. 05020032 V Chapter 26.04.05 buffer yard requirements**

The site is located at 9639 Haverstick Rd. and is zoned S-2/Residence.

Filed by Mark Monroe of Wooden & McLaughlin for W&D Land Co, LLC

Mr. Broach recused himself.

Present for the Petitioner: Mark Monroe, attorney, 12329 Brookshire Parkway, Carmel. The site is located west of Keystone Avenue, north of 96<sup>th</sup> Street and on the east side of Haverstick Road. An aerial photo was shown. The parcel is one half acre in size. It is bordered to the north by a single family residence, also owned by Mr. Hahn. To the east is an existing office complex. To the south is the office of Hahn Surveying, owned by Mr. Hahn, as well as a dentist office owned by Dr. Kinney. To the west on the other side of Haverstick is another single family residence, as well as an undeveloped property that is wooded and is the subject of a rezone petition before the Plan Commission for an office complex. The proposed site plan was shown. The residence is about 50 years old and it will maintain its residential character. They are proposing additional landscaping along the east side of the property line and additional pavement behind the house. The site will be used for an office. Mr. Hahn anticipates moving his Hahn Surveying business from 96<sup>th</sup> Street into this existing home. A photo of the existing residence was shown. Mr. Hahn has committed to leave the residence as it is and convert the inside to office space and maintain all the existing landscaping on site. They have addressed all the TAC concerns. The landscaping plan has been approved by the Urban Forester.

Remonstrance - Organized:

Pat Rice, 9659 Wild Cherry Lane. She stated there was no organized remonstrance because they have not had time to organize since they had a very short notice. She will make her comments at the end.

Individual:

Herbert Smelser, 2542 E. Pleasant Way. Haverstick is the only outlet north and south out of the subdivisions in that area. There are certain times of the day that they cannot get out onto 96<sup>th</sup> Street because of the heavy traffic. Workers from the office complex across Keystone also cut through the subdivision. Westbound traffic on 96<sup>th</sup> Street passes cars on a double yellow line, because there are no turn lanes. This use would create more traffic problems. The dentist's office should exit onto 96<sup>th</sup> Street instead of Haverstick.

Norman Wiseman, 9650 Haverstick Road, the property directly west. He was the only one to receive a registered letter. None of his immediate neighbors had notification. An office across the street is not conducive to a residential neighborhood. It is becoming a transition area and families will be less likely to buy in the area. His lot is one acre and his property value will go down. He pointed out the petition that approximately 40 neighbors had signed. Traffic was one of the main concerns because of children in the area. He stated that last fall the petitioner had cut down two very large beech trees and they remained in that position for about six months and were removed April 22. That calls into question just how concerned they are with the integrity and environment of the neighborhood.

Hugh Diehl, 9665 Haverstick Road, three houses from the proposed business. He would have had second thoughts about buying his home if he had known there would be encroachment from business. The area is extremely wooded. He assumes that if Mr. Hahn gets a variance for this property, that he will also attempt to get a variance for the second property, which would be one door from his house that he purchased last June. Traffic on 96<sup>th</sup> Street is a mess with frequent accidents. Law enforcement does their best, but it is still a mess.

Rod MacDonald, 9783 Haverstick, next to Mr. Diehl for 28 years. He does not want to see business on a residential street.

Jim Alred, 2519 Pleasant Way West, the east/west street immediately to the north of this property. He had sent a letter to the Board and reviewed the points in the letter. In the past when a proposal for variances had been made, the neighborhood residents within several hundred yards were kept informed, plans circulated and views of proposals were circulated. They basically received no information on this proposal. Second, they are all concerned with businesses creeping north onto Haverstick, which is a narrow residential street with no curbs with traffic concerns.

Bill Carrier, 9861 Chesterton for 45 years and neighborhood association president for the past 14 years. He felt this was a major threat to the area because Haverstick is a rustic and friendly road that leads into a quiet and children-friendly community of single dwelling houses. Allowing this business will start a downward spiral of the area. The 96<sup>th</sup> Street area started the same by turning a few residential homes into businesses. Presently the traffic at 96<sup>th</sup> Street and Haverstick is quite congested. He felt this would begin a domino affect.

Cole Alexis, 9658 Wild Cherry Lane. He shared two points from his letter to the Board. They felt from discussions with other developers that this area was considered a buffer area between the businesses and residential areas. They have repeatedly been involved with these kinds of requests. They have repeatedly requested that the City of Carmel fund a long-term land use survey to provide a definition of what this area needs to become. He has lived in the neighborhood sixteen years and he knows that they have had requests for the past eight years for that kind of funding that has been recommended in

the Comprehensive Plan. He hoped that with this one more controversy it will be taken back into consideration.

Michelle Neely, 9603 Wild Cherry Lane, on an acre lot behind Norm Wiseman. Most of the parcels are one acre with trees adjacent to beautiful woods. If this petition is granted, the businesses will be able to look through the Wiseman property into her very private backyard and pool area.

Pat Rice, 9659 Wild Cherry Lane. She shared an aerial view map and an area map from the water company. There was an error on the Comp Plan showing Haverstick as a line of demarcation for commercial and office development. The error was corrected and Day Drive is now the demarcation line. Two residences west of Day Drive on 96<sup>th</sup> Street had already received Special Use variance, Hahn Engineers and the dental office. These residential properties were to be maintained as such and have continued to be in compliance even when the dental office applied for an addition. The underlying zoning remains S-2 low density residential. There are so many issues. There is an historic landmark. Their one-acre lots are like an oasis in middle of all of this, plus the 3-acre land-locked parcels that have restrictions in their deeds because nothing can be done with them. The area is known as Wild Cherry Corner. They have been meeting for about six months with Jim Shinaver from Nelson and Frankenberger regarding the Tintera property. There is no collaboration between the two projects. There is a plan to connect from Westfield Boulevard through to Haverstick. Then people that will not be able to get on 96<sup>th</sup> Street will turn and go through Lakewood Garden to the light at 98<sup>th</sup> Street and Keystone. She pointed out other parcels in the area that will be developed. The south side of 96<sup>th</sup> Street will probably be redeveloped with offices. The backup on 96<sup>th</sup> Street from Keystone sometimes goes all the way to Westfield Boulevard. The roundabout coming in will not stop the backup. It will just keep pouring traffic onto 96<sup>th</sup> Street. There are no egress lanes on 96<sup>th</sup> Street, people drive in yards to pass. Haverstick curves around a home that is a landmark, making it a very narrow road. She felt there should be a study of the area, instead of parcels changing one at a time. Sometime 96<sup>th</sup> Street will need to be improved and there are a lot of issues with some of the restrictions that go with some of the deeds. Please consider the quality of life. Granting this petition will complicate the long-range plan for the area. They want to be part of the planning for the area.

Marlene Hatch, 9660 Haverstick, next to Wiseman's, kitty-corner from the property in question and next to the historic landmark which is a home that was part of the underground railroad. Haverstick is one of the oldest roads in this entire part of Indiana. There are plenty of other spaces to be used for businesses.

**Rebuttal:**

Mr. Monroe stated that the parcel is a half-acre site and will have little to do with the traffic congestion in the area. The main congestion in the area is at 96<sup>th</sup> Street and Keystone. Mr. Hahn is committed to keeping all the landscaping on site and has proposed additional plantings approved by the Urban Forester. The beech trees were cut down because they were rotting on the inside and might have fallen on the home. At the request of the current tenant, the trees were left for firewood. However, he never used them, so Mr. Hahn cleared them out. They have no intention of proposing any additional businesses along Haverstick. This site is closer to and adjacent to the 96<sup>th</sup> Street uses and is buffered by two properties owned by Mr. Hahn. The owner of the business complex to the east is in favor of this petition. Mr. Hahn's Surveying Office and the Kinney Dentist Office both have Use Variances issued by the BZA. The two office complexes to the east were also given Use Variances and one of those owners stated his support of this petition in his letter. There is no infraction or violation of the

Comprehensive Plan and as stated in the Department Report they comply with the Comprehensive Plan as approved in 1996. He felt those were the three main issues.

The Public Hearing was closed.

Mrs. Conn gave the Department Report. There are business uses to the south and east adjacent to this property. This is a Use Variance and not a Rezone. A Rezone is more permanent. This Use Variance would only allow a professional office use. This Use can also revert back to a residential use, because the owner is keeping a residential look for the house. The City Forester did visit the site and did recommend landscaping to keep the house residential-looking instead of commercial.

Mr. Hawkins asked about the property directly north that Mr. Hahn owns. It looked like a vacated street and easement.

Mr. Monroe stated the two lines on the plans showed the additional land that was acquired at one time.

Mr. Hawkins asked about the Comprehensive Plan's long-term goal for the area.

Mrs. Conn stated that the Land Use map shows that it is on the border of a low-intensity regional community employment area. This proposal would fall into the low-intensity employment area. The Land Use map does not show direct boundaries, it is not set in stone and could extend past this area.

Mrs. Torres questioned the adequate communication to the area property owners.

Mr. Monroe stated that sufficient certified mailings were made to the adjoining properties owners, as well as public notice, about three months ago when the application was filed.

Mr. Dierckman asked if a motion could be made in the negative.

Mr. Molitor stated that change was in the pending changes to the Rules of Procedure.

Mr. Hawkins asked if there had been any meetings with the adjoining property owners to discuss this plan.

Mr. Monroe stated that he had an extended phone conversation with Mrs. Rice last week and that she was the first person to contact him. The other phone calls were from adjoining property owners who were in support of the request. They were not in attendance. There were only three issues they could address. The other issues were more regional or area issues that should be addressed by the Plan Commission and Land Use Planning and had little to do with the petition.

Mr. Dierckman moved to approve **Docket No. 05020030 UV, Hahn Surveying**. The motion was seconded by Mrs. Torres and **DENIED 0-4**.

Mr. Monroe **withdrew Docket Nos. 05020031 V and 05020032 V**.

**J.     New Business.**

Mr. Molitor had circulated the proposed changes to the Rules of Procedure. In discussions with Mr. Molitor and Mr. Dierckman, Mr. Broach had indicated that he was in favor of the changes. Mr. Dierckman moved to approve the **Proposed Changes to the Rules of Procedure**. The motion was seconded by Mrs. Torres and **APPROVED 4-0**.

**K.     Adjourn.**

Mr. Dierckman moved to adjourn. The motion was seconded by Mrs. Plavchak and **APPROVED 4-0**. The meeting was adjourned at 7:50 PM.

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James R. Hawkins, President

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Connie Tingley, Secretary